

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GLORIA VILLANUEVA,)	
)	
Plaintiff,)	
)	
v.)	No. 07 C 4626
)	
VILLAGE DISCOUNT OUTLET, INC.,)	
)	
Defendant.)	

MEMORANDUM ORDER

During the course of this morning's status hearing, counsel for defendant Village Discount Outlet, Inc. ("Village") stated that an Answer to the First Amended Complaint ("FAC") brought against it by Gloria Villanueva ("Villanueva") had been filed on October 19, with a copy having been delivered to this Court's chambers. Although at that time this Court had not seen the Answer, a copy did turn up later in the day.

Two affirmative defenses ("ADs") were included in the Answer following Village's responses to Villanueva's allegations. Those ADs have triggered the sua sponte issuance of this memorandum order.

As for AD 1, which is the essential equivalent of a Fed. R. Civ. P. ("Rule") 12(b)(6) motion, not only is it inadequate in terms of the notice pleading requirements that apply to defense counsel as well as to lawyers drafting complaints, but it is also conceptually unsound when Villanueva's allegations are taken as gospel (as they must be for Rule 12(b)(6) purposes). Accordingly

AD 1 is stricken, without prejudice to Village's possible assertion of something more specific that may indeed call for dismissal of some part of Villanueva's allegations.

But AD 2, which charges that Villanueva is out of court on limitations grounds, is another matter. Although that assertion also lacks the requisite particularity, this Court has noted that the only date asserted in the FAC identifying any adverse employer action is July 14, 2006 (FAC ¶19), with Villanueva's charge of discrimination not having been filed with EEOC for more than a year thereafter (FAC ¶25 gives that filing date as July 24, 2007). Accordingly Villanueva's counsel is ordered to file copies of her charge of discrimination and of EEOC's right-to-sue letter, together with a brief response on the limitations issue, on or before November 5, 2007. This Court will then determine whether any further submissions are called for on the subject of limitations.



Milton I. Shadur
Senior United States District Judge

Date: October 23, 2007